

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.3360 OF 1988

Madanlal Bankatlal Badruka. ...Petitioner.

Vs.

Tahsildar Kurla & Ors. ...Respondents.

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Mr.N.R.Gandhi i/b. Mahimtura & Co. for the
Petitioner.

Ms.Geeta Shastri for Respondent No.1.

Mr.D.N.Salvi for Respondent No.2.

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CORAM : DR.D.Y.CHANDRACHUD, J.

January 27, 2005.

P.C.:

This Petition under Article 227 of the Constitution was instituted on 2nd November 1988 in order to challenge an auction notice dated 20th September 1988, issued by the Government of Maharashtra, by which an auction was sought to be conducted in respect of grass growing on certain Salt Pan lands which form the subject matter of the

present petition. The description of the lands which is indicated in para 2 of the Petition is as follows :

"Immovable property situated at Village Nahur, Taluka Mulund bearing Plot No.V at Bhandup Custom Taluka and Nahur Survey Nos.10, 20 and 157 and Mulund Survey Nos.102, 103, 104 and Plot No.351 admeasuring about 507 acres and 8 gunthas and Plot No.VIII of Bhandup Custom Taluka bearing Mulund Survey Nos.95 (part), 97 to 1001, 105, 351, 383 (part) admeasuring 391 acres and 17 gunthas which are known as 'Battiwala Salt Works' and 'Jamasji Salt Works'."

The contention of the Petitioner is that these lands vest in the Union of India and that, therefore, the State Government had no authority to issue an auction notice. An affidavit has been filed on behalf of the Union of India supporting the Petition. In the affidavit filed by the Deputy Salt Commissioner on 30th October 2003, it has been stated that these lands were acquired by the Government of India under the Land Acquisition Act and that consequently, the Tahsildar, Kurla had no

right to auction the right to grass cultivation. The State Government has not filed any affidavit. Ms. Shastri, the A.G.P. who appears on behalf of the State submits that the State Government would seriously, in an appropriate case seek to contest the allegations in regard to title that are sought to be urged in support of the Petition. However, in so far as the present case is concerned, she urged that it would not be necessary for the Court to go into that question since the auction notice was stayed when the Petition was admitted and that at this stage, therefore, the Petition is substantially worked out as a result of the interim stay. Counsel for the State further states on instructions that without prejudice to the rights and contentions raised and without in any manner conceding to the averments on title that are sought to be urged in the petition, the impugned auction notice shall not be implemented having regard to what is stated hereinabove. The impugned auction notice dated 20th September 1988 would not therefore, fall for implementation now. In view of the statement which is made on behalf of the Respondent-State, it is not necessary for the Court to go into any dispute on title in these proceedings nor should this order be construed as the expression of any opinion by this Court on the

question of title. In view of the statement which has been made on behalf of the State Government, this petition is not pressed any further and is disposed of.

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